

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BANK OF AMERICA, N.A.,

Plaintiff,

v.

THIRD AVENUE IMAGING LLC, a
New York limited liability company,
UNIQUE THIRD AVE LLC, a New York
limited liability company, UNIQUE
IMAGING SERVICES LLC, a New York
limited liability company,
DISTINGUISHED DIAGNOSTIC
IMAGING, P.C., a New York professional
corporation, and JOEL REISMAN, an
individual,

Defendants.

Case No. 21-cv-5201-VB

~~PROPOSED~~ FINAL JUDGMENT

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
3/8/2024

Upon this action having been commenced by the plaintiff Bank of America, N.A. (the “*Plaintiff*”) on June 11, 2021, by the filing of a Verified Complaint with Exhibits [ECF, Doc. 1] (the “*Verified Complaint*”), against the defendants Third Avenue Imaging LLC (“*TAI*”) Unique Third Ave LLC (“*UTA*”), Unique Imaging Services LLC (“*UIS*”), Distinguished Diagnostic Imaging, P.C. (“*DDI*”) and Joel Reisman (“*Reisman*,” collectively, the “*Defendants*”), and a Verified Answer having been filed on behalf of the Defendants TAI, UTA, UIS and Reisman (collectively, the “*Reisman and LLC Defendants*”) on August 31, 2021 [ECF, Doc. 31] and a Verified Answer having been filed on behalf of defendant DDI with cross-claims against the Reisman and LLC Defendants on September 10, 2021 [ECF, Doc. 34], and a Verified Reply having been filed on behalf of the Reisman and LLC Defendants on October 10, 2021 [ECF, Doc. 38], and the Plaintiff having filed an Amended Verified Complaint on July 15, 2022 [ECF, Doc. 63], and a Verified Answer to the Amended Verified Complaint having been filed by the Reisman and LLC Defendants on July 27, 2022 [ECF, Doc. 66] and a Verified Answer to the Amended

Complaint having been filed on behalf of defendant DDI with cross-claims against the Reisman and LLC Defendants on July 27, 2022 [ECF, Doc. 65], and a Verified Reply to DDI's cross-claims having been filed on behalf of the Reisman and LLC Defendants on August 1, 2022 [ECF, Doc. 67]; the Plaintiff having moved pursuant to a Motion for Summary Judgment and supporting papers (the "**Motion**") against all of the Defendants on December 30, 2022 [ECF, Docs. 75-80]; and the defendant DDI having filed opposition to the Motion on January 20, 2023 [ECF, Docs. 81-83], and the Reisman and LLC Defendants having filed opposition to the Motion on January 20, 2023 [ECF, Doc. 84] and the Plaintiff having filed a Reply Memorandum of Law in support of the Motion on February 3, 2023 [ECF, Doc. 85]; and

Upon which the Court entered an Opinion and Order dated June 5, 2023 [ECF, Doc. 88] pursuant to which the Motion was granted in part with respect to the Plaintiff's First, Second and Sixth Claims against the Reisman and LLC Defendants, and denied in part on the Second and Sixth Claims against defendant DDI; and

Upon which the Court entered an Order dated June 29, 2023 [ECF, Doc. 90], which, among other things, directed the parties to submit proposed findings of facts and conclusions of law and scheduled a bench trial with respect to the Plaintiff's Second and Sixth claims against defendant DDI; and both the Plaintiff and defendant DDI having filed Proposed Findings of Facts and Conclusions of Law on September 8, 2023 [ECF, Docs. 93, 94]; and a Stipulation and Order between the Plaintiff and defendant DDI having been "So Ordered" and entered on November 21, 2023 [ECF, Doc. 109], pursuant to which defendant DDI withdrew with prejudice its defenses with respect to the Plaintiff's Second Claim and Sixth Claim and consented to entry of final judgment on said claims; it is hereby

ORDERED, ADJUDGED AND DECREED that the Plaintiff have judgment against the Reisman and LLC Defendants and defendant DDI as follows:

- a. Judgment be and hereby is entered in favor of the Plaintiff Bank of America, N.A. and against defendant Third Avenue Imaging LLC on the First Claim of the Verified Amended Complaint, **as of January 10, 2024**, in the total amount of ~~\$3,699,933.82~~ ^{UB} ~~\$2,300,265.00~~, consisting of (i) unpaid principal in the amount of \$2,300,265.00, (ii) contract rate accrued interest in the amount of \$495,524.27 (with additional contract rate interest continuing to accrue from January 11, 2024 at the *per diem* rate of \$525.05 through the date of entry of judgment), (iii) default rate (contract rate plus an additional 6%) accrued interest in the amount of \$580,670.75 (with additional default rate interest continuing to accrue from January 11, 2024 at the *per diem* rate of \$383.38 through the date of entry of judgment), and (iv) attorneys' ~~\$323,473.80~~ ^{UB} ~~\$227,407.46~~ fees and costs in the amount of ~~\$227,407.46~~ plus post-judgment interest at the lawful rate, until the same is paid and satisfied; and
- b. Judgment be and hereby is entered in favor of the Plaintiff Bank of America, N.A. and against defendants Third Avenue Imaging LLC, Unique Third Ave LLC, Unique Imaging Services LLC, Distinguished Diagnostic Imaging, P.C., and Joel Reisman on the Second Claim of the Verified Amended Complaint, granting the Plaintiff foreclosure upon its security interest in the Collateral (as defined in the Verified Amended Complaint), awarding the Plaintiff immediate possession of the Collateral, and to the extent that any of the Collateral is not presently in possession or control of the Reisman and LLC Defendants and defendant DDI, said defendants are ordered to immediately inform the Plaintiff's counsel of the present location of

the Collateral and to take all necessary measures to facilitate the turnover of the Collateral to the Plaintiff; and permitting the Plaintiff to dispose of the Collateral and apply proceeds thereof to the obligations and liabilities of TAI in accordance with Article 9 of the Uniform Commercial Code; and

- c. Judgment be and hereby is entered in favor of the Plaintiff Bank of America, N.A. and against defendants Unique Third Ave LLC, Unique Imaging Services LLC, and Joel Reisman on the Sixth Claim of the Verified Amended Complaint, **as of \$3,699,933.82, January 10, 2024**, in the total amount of ~~\$2,300,265.00~~ ^{\$3,699,933.82}, consisting of (i) unpaid principal in the amount of \$2,300,265.00, (ii) contract rate accrued interest in the amount of \$495,524.27 (with additional contract rate interest continuing to accrue from January 11, 2024 at the *per diem* rate of \$525.05 through the date of entry of judgment), (iii) default rate (contract rate plus an additional 6%) accrued interest in the amount of \$580,670.75 (with additional default rate interest continuing to accrue from January 11, 2024 at the *per diem* rate of \$383.38 through the date of entry of judgment), and (iv) attorneys' fees and costs in the amount of ~~\$234,844.52~~ ^{\$323,473.80}, plus post-judgment interest at the lawful rate, until the same is paid and satisfied; and

- d. Judgment be and hereby is entered in favor of the Plaintiff Bank of America, N.A. and against defendant Distinguished Diagnostic Imaging, P.C. on the Sixth Claim of the Verified Amended Complaint, **as of January 10, 2024**, in the total amount of ~~\$2,300,265.00~~ ^{\$3,119,263.07}, consisting of (i) unpaid principal in the amount of \$2,300,265.00, (ii) contract rate accrued interest in the amount of \$495,524.27 (with additional contract rate interest continuing to accrue from January 11, 2024 at the *per diem*

rate of \$525.05 through the date of entry of judgment), and (iii) attorneys' fees and
costs in the amount of ~~\$227,874.56~~ ^{\$323,473.80}, plus post-judgment interest at the lawful rate,
until the same is paid and satisfied.

Dated: March 8, 2024
White Plains, NY



HON. VINCENT L. BRICCETTI, U.S.D.J.

The Clerk is instructed to close this case.